

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JOHN EDWARD NEAL,

Plaintiff,

vs.

No. CIV 99-0217 JC/KBM

CLINTON D. HARDEN, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER came on for consideration of Defendant Clinton D. Harden's Motion To Dismiss, filed May 28, 1999 (*Doc. 9*), and Defendant City of Santa Fe's Motion to Dismiss or, in the Alternative, Motion for More Definite Statement, filed June 28, 1999 (*Doc. 15*). The Court has reviewed the motions, the memoranda submitted by the parties and the relevant authorities. The Court finds that Defendants' motions are well taken and will be granted.

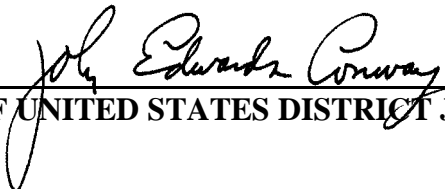
Plaintiff is an over-fifty African American who served in the Vietnam war. Plaintiff was recently laid-off, along with several other employees, from his position with the City of Santa Fe ("the City"). The City discharged Plaintiff and the others for financial reasons. Unfortunately, Plaintiff had only been working for the City for a few weeks and was consequently denied unemployment compensation under New Mexico law. *See* N.M.S.A. § 51-1-7 ("the disqualification shall continue for the duration of his unemployment and until he has earned wages . . . equivalent to five times his weekly benefit amount otherwise payable") and N.M.S.A. § 51-1-8.

Plaintiff now claims § 51-1-7 and § 51-1-8 violate the First, Fifth and Fourteen Amendments to the Constitution. Plaintiff, however, fails to identify how the unemployment laws violate the various amendments. Defendants move to dismiss based on this failure to plead clearly. “Because Plaintiff has not specifically described . . . how his . . . rights were allegedly violated, his claim under the [First, Fifth and] Fourteenth Amendment cannot succeed.” *Nagol v. New Mexico*, 923 F. Supp. 190, 193 (D.N.M. 1996). Consequently, Plaintiff’s case will be dismissed without prejudice.

Wherefore,

IT IS HEREBY ORDERED that Defendant Clinton D. Harden’s Motion To Dismiss, filed May 28, 1999 (*Doc. 9*), and Defendant City of Santa Fe’s Motion to Dismiss or, in the Alternative, Motion for More Definite Statement, filed June 28, 1999 (*Doc. 15*) are **granted**. Plaintiff’s Complaint is **dismissed** without prejudice.

DATED this 3rd day of August, 1999.



CHIEF UNITED STATES DISTRICT JUDGE

Plaintiff *Pro Se*:

John Edward Neal
Santa Fe, New Mexico

Counsel for Defendant Harden:

Barbara Pryor
McCary, Wilson & Pryor
Albuquerque, New Mexico

Counsel for Defendant City of Santa Fe:

Ronald J. Childress
Albuquerque, New Mexico